

**In the United States Court of Appeals
For the Fourth Circuit**

**In re BRIAN DAVID HILL, in
his individual capacity as former
news reporter of USWGO
Alternative News
Petitioner**

v.

**United States of America,
Respondent**

No. _____
(Clerk will supply case no.)

[No. 1:13-CR-435-1]

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U.S. COURT OF APPEALS
FOURTH CIRCUIT

**PETITION FOR A WRIT OF MANDAMUS AND PROHIBITION TO THE
UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA AND MOTION FOR STAY OF DISTRICT COURT
JUDGMENT PENDING MANDAMUS**

Brian David Hill ("USWGO")

Pro Se Petitioner

(276) 790-3505
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

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INTRODUCTION AND SUMMARY OF ARGUMENT

In this extraordinary case, the U.S. District Court for the Middle District of North Carolina, case no. 1:13-cr-435-1, had repeatedly allowed frauds upon the court against the Petitioner Brian David Hill (“Brian”, “Hill”, “Petitioner”). The U.S. District Court under the Hon. District Court Judge Thomas D. Schroeder, had ignored different “Fraud Upon the Court” issues and sanctions motions but U.S. Magistrate Judge Joe Webster did deny one motion asking to allow Petitioner to amend his 2255 Motion for an additional ground of “Fraud upon the Court”. JA stands for Joint Appendix.

Petitioner Brian is not getting any relief from his direct appeal in his appellate case no. 19-4758 (citing denial of emergency motion for stay of imprisonment) and is forced to be incarcerated inside of a Federal Prison based almost entirely on frauds, lies, due process deprivations, and that the U.S. District Court is doing absolutely nothing to vacate any fraudulent begotten judgments. Petitioner has no avenue for relief at all in the United States District Court for the Middle District of North Carolina.

The Doc. #200 judgment and commitment order (JA 1) had caused Petitioner to have to self-report to the Federal Medical Center in Lexington, Kentucky (FMC Lexington), by December 6, 2019.

In October 4, 2019, Petitioner had filed the Document #199 (JA 2) MOTION entitled “Motion for Sanctions and to Vacate Judgment in Plaintiff's/Respondent's Favor” “Motion and Brief/Memorandum of Law in Support of Requesting the

Honorable Court in this case Vacate Fraudulent Begotten Judgment or Judgments” filed by BRIAN DAVID HILL. Response to Motion due by 10/25/2019.

(Attachments: # (1) Supplement 1, # (2) Supplement 2, # (3) Exhibit 1, # (4) Exhibit 2, # (5) Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah).”

The opposing party: United States of America, never filed any opposition or response to that motion. It has been almost an entire month since the date that the opposing counsel can timely respond to that motion which was filed. The facts and elements of the allegations were never contested in Document #199 (JA 2). When the other party is accused of getting an illegal order or judgment by perpetuating a fraud upon the court and that other party never contests such allegations, then those allegations are facts and are true, and warrant vacatur of voidable judgments.

When fraud was conducted by the adverse party to get what they want, a ruling in their favor, when such ruling was proven to be a fraudulent begotten ruling and the party victimized by such fraud had properly lay such claims before the Court, then that party has a right to request that the Court vacate such judgment. The offending counsel for the opposing party: United States of America, is none other than Anand Prakash Ramaswamy who was over prosecution of the criminal case ever since it had been opened up for Grand Jury Indictment.

In October 9, 2019, Petitioner had filed the Document #203 NOTICE OF APPEAL without payment of fees filed by BRIAN DAVID HILL re: [198] Order.

(Attachments: # (1) Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah) (JA 3). That very same Appeal notice had stated “*Brian David Hill is illegally and unconstitutionally being ordered to turn himself into Federal Prison by December 6, 2019, and was done by the errors and usurpations of power by Judge Schroeder.*” If Brian is being illegally detained by fraudulent begotten

judgment(s) and the U.S. District Court doesn't show any care or mercy to vacate the frauds and correct the void decisions, then Petitioner's only remedy is Writ of Mandamus. Direct Appeal will not remedy Petitioner from being forced to be confined in a Federal Prison on the day of December 6, 2019 based on frauds and lies perpetuated by the adverse party, by one or more officers of the court.

Sanctions is warranted upon proving fraud upon the court, but the U.S. District Court has committed the behavior of dereliction of duty by ignoring the frauds and taking no action. A dereliction of duty in violation of case law and in contradiction of case law and in contradiction of the Constitution.

In October 15, 2019, Petitioner had filed the Document #206 (JA 4) MOTION entitled "MOTION entitled "Petitioner's Second Motion for Sanctions and to Vacate Judgment that was in Plaintiff's/Respondent's Favor; Motion and Brief/Memorandum of Law in support of Requesting the Honorable Court in this case Vacate Fraudulent begotten Judgment or Judgments" filed by BRIAN DAVID HILL. Response to Motion due by 11/5/2019. (Attachments: # (1) Exhibit 1, # (2) Exhibit 2, # (3) Supplement 1, # (4) Supplement 2, # (5) Supplement 3, # (6) Supplement 4, # (7) Envelope - Front and Back) (Garland, Leah)."

The opposing party: United States of America, never filed any opposition or response to that motion either. It has been over a month since that motion was filed. The facts and elements of the allegations were never contested in Document #206 (JA 4). When the other party is accused of getting an illegal order or judgment by perpetuating a fraud upon the court and that other party never contests such allegations, then those allegations are facts and are true, and warrant vacatur of voidable judgments. The offending counsel for the opposing party: United States of America, is none other than Anand Prakash Ramaswamy who was over

prosecution of the criminal case ever since it had been opened up for Grand Jury Indictment.

In November 1, 2019, Petitioner had filed the Document #213 (may not be listed as part of the Joint Appendix due to the high volume of pages and Petitioner has a fixed income of SSI disability, the Appeals Court may access that particular record electronically from court record) “Objection by BRIAN DAVID HILL re[210] Recommended Ruling - Magistrate Judge re [168] MOTION filed by BRIAN DAVID HILL, [153] MOTION to Appoint Attorney filed by BRIAN DAVID HILL, [141] MOTION to Dismiss Motion to Vacate, Set Aside, or Correct Sen (Attachments: # (1) Envelope - Front and Back)(Butler, Carol)”. Filed on November 1st, 2019 but entered on the docket on the date of November 4, 2019.

In October 21, 2019, Document #211 (JA 5) “Notice of Mailing Recommendation: Objections to R&R due by 11/4/2019. Objections to R&R for Pro Se due by 11/7/2019. (Garland, Leah)” was filed on the docket and Petitioner had 14 days to file timely objections. Petitioner had filed the objections timely under Document #213.

Here is what a portion of Document #211 had stated on the record:

“Rule 72(b), Fed. R. Civ. P. provides in pertinent part: (b) Dispositive Motions and Prisoner Petitions.”

“Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. A party may respond to another party’s objections within 14 days after being served with a copy. Unless

the district judge orders otherwise, the objecting party must promptly arrange for transcribing the record, or whatever portion of it the parties agree to or the magistrate judge considered sufficient.”

Document #213 had also stated allegations against Anand Prakash Ramaswamy.

Because the objections were entered on November 4, 2019, that meant the U.S. Attorney Office including Anand Prakash Ramaswamy had been served on November 4, 2019, Monday. The two-week deadline would end on November 18, 2019, also a Monday. The opposing counsel for the United States of America did not file a response and neither an opposition to the objections. Even if the U.S. Attorney was given an extra day out of grace, they still did not file a response to the objections. The Document #213 objections also had a lot of allegations of fraud upon the court against the opposing counsel and they still did not respond.

In January 30, 2019, Petitioner had filed the Document #169 (**JA 6**) “MOTION for Hearing and for Appointment for Counsel filed by BRIAN DAVID HILL.

Responses due by 2/20/2019. (Attachments: # (1) Envelope - Front and Back) (Garland, Leah)”. That letter and motion also had stated in hand-writing that the opposing counsel had engaged in fraud upon the court.

Citing from that letter in part: “...crippled my ability to prove factual innocence and prove AUSA Ramaswamy's fraud upon the Court.” Another written statement from that letter said “*The “Factual Basis” of my guilt provided by the Government prior to Sentencing was fraudulent. My confession statements were proven to be inaccurate and false, a false confession caused by my Autism because of the way I was interrogated.*” That letter cited the proper case law authority of Chambers v. NASCO, Inc. and properly cited the Court’s inherit powers. That very authority came from the United States Supreme Court.

More statements cited from that letter that was a motion said “*The SBI, that is the State Bureau of Investigation and through their Case File (forensic report) reported files/images/videos of interest but there was NO affidavit verifying/confirming whether each such file could have been actual child pornography. In addition to that, the SBI case file said that 454 files had been downloaded with the eMule program between July 20, 2012, and July 28, 2013, while my computer was seized on August 28, 2012.”*

The opposing party: United States of America, never filed any opposition or response to that motion either. It has been almost ten months since that motion was filed. The facts and elements of the allegations were never contested that were contained in Document #169 (**JA 6**). When the other party is accused of getting an illegal order or judgment by perpetuating a fraud upon the court and that other party never contests such allegations, then those allegations are facts and are true, and warrant vacatur of voidable judgments. The offending counsel for the opposing party: United States of America, is none other than Anand Prakash Ramaswamy who was over prosecution of the criminal case ever since it had been opened up for Grand Jury Indictment.

In November 4, 2019, Petitioner had filed the Document #214 (**JA 7**) “MOTION FOR LEAVE TO AMEND OR SUPPLEMENT HIS 2255 MOTION by BRIAN DAVID HILL. (1:17CV1036) (Butler, Carol)” was filed on the docket. That was asking to amend the 2255 Motion to add an additional GROUND FIVE: Fraud Upon the Court, since fraud upon the court is not subject to a statutory time bar as it is a Court’s inherit power to deter and vacate frauds that created void or voidable judgments.

In November 20, 2019, Document #219 (**JA 8**) “ORDER signed by MAG/JUDGE JOE L. WEBSTER on 11/20/2019, that Petitioner's motion for leave to amend

(Docket Entry [214]) is DENIED. (Civil Case number: 17CV1036) (Garland, Leah)” was filed on the docket denying Petitioner’s motion under Document #214 (JA 7) for leave to amend his 2255 Motion to add a claim in regards to “Fraud Upon the Court” based on the Court’s inherit powers.

In November 8, 2019, Petitioner had filed the Document #217 (JA 9) “MOTION entitled "Request that the U.S. District Court Vacate Fraudulent Begotten Judgment, Vacate the Frauds upon the Court against Brian David Hill", filed by BRIAN DAVID HILL re: [199] Motion. Response to Motion due by 12/2/2019 (Attachments: # (1) Envelope - Front and Back) (Garland, Leah) Modified on 11/12/2019 to correctly link document. (Garland, Leah)” filed on the docket.

That request was merely just asking the Court to rule on Documents #199 and #206 that were both unopposed already by the opposing counsel, but the Clerk gave them additional time to respond to the very request asking that the Court grant already unopposed motions on the grounds of fraud upon the court and void judgments. They are given until December 2, 2019, then 4 days later Brian will be forced against his will to self-report to the Federal prison FMC Lexington in Kentucky.

The District Court had allowed too many frauds and lies against the party: Brian David Hill, and is offering no remedy, not given any remedy, and is refusing to give any legal remedy for the frauds upon the court by the United States of America.

Petitioner had also mailed out a “Petitioner's Third Motion for Sanctions, Motion for Default Judgment in 2255 case and to Vacate Judgment that was in Plaintiff's/Respondent's Favor”, “Motion and Brief/Memorandum of Law in support of Requesting the Honorable Court in this case grant request for Default

Judgment and Vacate Fraudulent begotten Judgment or Judgments” (may be Document #222 or 223). It will be filed on November 21, 2019 as the Clerk did acknowledge to receiving that filing on November 21 2019. However it will have a document number by the time that Petitioner mails out his Joint Appendix for his Writ of Mandamus so he is attaching that as Joint Appendix 10 (**JA 10**) as a true and correct copy of what was mailed to the Clerk of the U.S. District Court for the record. That further proves fraud and lies by the opposing counsel and that such lies are damaging/injuring the party: Brian David Hill into a wrongful incarceration on December 6, 2019.

Petitioner had requested a hearing under Document #169 but the Magistrate Judge Joe Webster under Order Document #210 had recommended that the motion be denied. Petitioner was never given a hearing at all when Petitioner started uttering the words “fraud upon the court” against Anand Prakash Ramaswamy and Edward R. Cameron of the U.S. Probation Office who are both officers of the court since last year in his 2255 and criminal case. The U.S. District Court has committed multiple and serious errors of **dereliction of duty** and refusing to address the frauds upon the court, refusing to address such allegations, and refusing to allow Petitioner to be awarded any kind of sanctions in his favor or relief in his favor against the United States of America including but not limited to vacating fraudulent begotten judgments. Instead his words of “fraud upon the court” are consistently ignored or denied.

Even the U.S. Magistrate is stating that none of Petitioner’s evidence, claims, or merits even matter in his Document #210 order.

Citing from the order:

“As explained above, all of Petitioner’s grounds are time-barred. However, **if the Court were to reach the merits of Petitioner’s grounds for relief, it would deny them.**”

So even if this Court considers that Petitioner had proven actual innocence (which shows fraud by the Government) or any of the frauds upon the court and the offending party does not respond to any allegations of fraud when given multiple opportunities for a response, then the U.S. District Court would deny the merits even if the merits could be reached.

If the Honorable Thomas D. Schroeder and the Honorable U.S. Magistrate Judge may be intentionally allowing and advocating the frauds upon the court by the adverse party: the “United States of America”, knowing that Petitioner will have to voluntarily surrender to a Federal Prison at a fixed date of December 6, 2019, by high noon, knowing that Petitioner may prevail on Direct Appeal through attorney Kennedy in appeal case no. 19-4758, is obstruction/deprivation of Petitioner’s procedural due process rights, cruel and unusual punishment in violation of the Eighth Amendment (U.S. Constitution), and in violation of proper constitutional and judicial procedures. If a Court allows fraud in favor of the adverse party who perpetuated frauds upon the court, then it no longer holds integrity and the judgments by that court are all voidable judgements and should be considered void judgments. Judgments grounded on fraud should not be enforceable as a matter of law. Judgments grounded on due process deprivations/violations should not be enforceable as a matter of law.

Mandamus is a necessary safety valve in the extraordinary situation here, where a district court in the Middle District of North Carolina has insisted on allowing the frauds upon the Court by the Federal Prosecutor aka the counsel of the United States of America, the prosecutor is wrongfully usurping power and authority over

Brian David Hill and can lie and defraud the Court anytime he wants to imprison Brian over and over again without any remedy such as motion for stay of judgment and not be given any remedy no matter what he argues, files, or says. This creates a dangerous precedent of judicial tyranny for a Constitutional republic and gives the United States Attorney Office the power to lie, cheat, and steal. The U.S. District Court has asserted that Petitioner is guilty of indecent exposure and child pornography, ignored Petitioner's actual innocence arguments and claims, ignored case law in Petitioner's favor, and is overpowering the persuasive case law that asserts that due process violations and fraud are grounds for vacatur of any order or decision as void judgments. In a sense, the U.S. District Court is resisting and rebelling against the U.S. Supreme Court and higher court case laws, it is a civil war, yes a CIVIL WAR started by the U.S. District Court to separate themselves from the authority and original jurisdiction of the Supreme Court, a civil war indeed by activist judges. Any reasonable jurists would recognize this usurpation as a cause for concern over usurping power to obstruct or interfere with a criminal Defendant's right to due process in this case, obstruct and interfere with the due process rights and impartiality guarantee of the judiciary. The usurpation of power to resist the Supreme Court and refuse to carry out any case law favorable to a criminal defendant but favorable to the Government. That is non-representative and tyrannical form of governance, to make its citizens afraid of the Government instead of the Government being afraid of its citizens.

In fact this same Court during the hearing on September 30, 2014 (citing Document #115, Transcript) had threatened to charge witness and Attorney Susan Basko for perjury (See Document #46, Declaration) for asserting Brian's innocence and filing a declaration with the Court but yet won't hold Attorney

Anand Prakash Ramaswamy for fraud upon the court, obstruction of justice, subornation of perjury, and violation of N.C. State Bar Rule 3.8.

Petitioner therefore respectfully asks that this Court exercise its supervisory authority to direct the district court to file an order or decision regarding Motion under #199, Motion under #169, and Motion under #206 to conduct an evidentiary hearing on any allegations that the opposing party had timely opposed and to treat any unopposed allegations of fraud against an officer of the court as FACTS and order vacatur of any and all fraudulent begotten judgments.

There are issues involving “fraud upon the court” and it is the Court’s duty of authority, integrity, honesty, and obligation to address any frauds upon the court and to exercise discretion in deterring such frauds that was perpetuated by an officer of the court.

Pursuant to 28 U.S.C. § 1651 and Federal Rule of Appellate Procedure 21, the Petitioner Brian David Hill of USWGO Alternative News respectfully requests that this Court issue a writ of mandamus and prohibition directing the district court to enter an order (1) to vacate any and all frauds upon the court by the party: United States of America and by offending counsel Anand Prakash Ramaswamy; (2) to grant Petitioner’s MOTION under Document #169 requesting a hearing to address the fraud allegations if necessary; (3) to grant Petitioner’s MOTION under Document #199 to vacate fraudulent begotten judgment or judgments; (4) to grant Petitioner’s MOTION under Document #206 to vacate fraudulent begotten judgment or judgments; (5) to PROHIBIT enforcement of the Doc. #200 judgment that Petitioner be committed to the custody of the Federal Bureau of Prisons; (6) to PROHIBIT enforcement of the Doc. #200 judgment that Petitioner be imprisoned for nine (9) months; and (7) to PROHIBIT enforcement of all or any of the Document #200’s “Judgment and Commitment” due to it being a fraudulent

begotten judgment. In addition, because the frauds upon the Court has directly caused the judgement of revocation by “Judgment and Commitment Order”, Petitioner respectfully requests that this Court promptly stay enforcement of the district court’s oral Judgment on September 12, 2019, and the written “Judgment and Commitment Order” entered on Document #200 (JA 1) until disposition of this petition or even after the mandate after disposition of Petitioner’s timely filed Mandamus and Prohibition appeal.

Pursuant to Federal and Local Rules of Appellate Procedure Rule 8(a)(2)(A)(i), Petitioner requests that the Court of Appeals consider Petitioner’s motion for Stay of Judgment Pending Appeal on this Mandamus Writ since the “*moving first in the district court would be impracticable*” because Petitioner is a victim of being repeatedly defrauded in this criminal case and imprisonment only aggravates injury and torment against Petitioner further suffering under the frauds that the U.S. District Court have allowed for so long. The Hon. Judge Thomas D. Schroeder should have acted a long time ago to conduct hearings or making decisions based upon Petitioner’s first or even second allegations of fraud upon the court by Anand Prakash Ramaswamy of the United States of America or even of Officer Edward R. Cameron, who are both Officers of the Court but his Judgment of imprisonment wrongfully imprisons Petitioner which further injures and victimizes Petitioner based on the frauds. It is wrong for any fraudulent begotten judgment to order that Brian must surrender to Federal Prison to prevent him from having any access to his evidence and local archive of his pleadings which may be necessary in order for Petitioner to be found actually innocent (legally innocent) of possession of child pornography. Because the Federal Imprisonment order is based on fraud or frauds, this motion needs to be acted upon more quickly to protect Petitioner’s right to due process and the right to a fair and impartial proceedings before having

to turn himself into a Federal Prison or be afforded a new Final Revocation hearing upon prevailing on appeal or vacate all judgments including Document #54 conviction.

A party seeking mandamus must demonstrate that it has a “clear and indisputable” right, there are “no other adequate means” of relief, and the writ is otherwise “appropriate under the circumstances.” *Cheney v. United States Dist. Court for D.C.*, 542 U.S. 367, 380-81 (2004).

If there is no time limit set for the Hon. Judge Thomas D. Schroeder to file his judgment or order on the frauds by the opposing party concerning the Supervised Release Violation of Petitioner, then Petitioner is blocked and deprived from any kind of justice, impartiality, and is a lack of integrity in the United States District Court for the Middle District of North.

STATEMENT OF FACTS

The Statement of facts were already brought up through “INTRODUCTION AND SUMMARY OF ARGUMENT”.

ARGUMENT

An appellate court has the power under 28 U.S.C. § 1651(a) to issue a writ of mandamus directing the conduct of a district court where (1) the petitioner has a “clear and indisputable” right to relief; (2) there are “no other adequate means to attain the relief”; and (3) mandamus relief is otherwise “appropriate under the circumstances.” *Cheney v. United States Dist. Court for D.C.*, 542 U.S. 367, 380-81 (2004). Fraud upon the court being ignored is an appropriate circumstance.

The district court should have quickly dealt with the fraud upon the court allegations with a hearing, filing orders for determining whether the Court and Brian David Hill were victims of fraud or frauds upon the court. Frauds cannot be originally challenged on direct appeal since the frauds have to be discovered and proven prior to seeking relief, so direct appeal may not be a feasible available mechanism to overturn a wrongful judgment when frauds have to be proven and direct appeals can only make determinations based upon what was already on the record and frauds can be discovered after the judgment when direct appeal may not be available. A judgment that was based on any proven facts of fraud is an error of law and is a void judgment or voidable judgment. The longer the district court does not enter a judgement or order vacating any fraudulent begotten judgments, the less of a chance at Petitioner can prevail on direct appeal before being imprisoned wrongfully and serving an invalid/voidable/illegal sentence because the District Court will not address the issues of fraud before ordering Petitioner's forced imprisonment on December 6, 2019 at FMC Lexington, Kentucky.

The District Court cannot validly argue an excuse that it needed more time before relieving Brian David Hill from any or all fraudulent begotten judgments when the Government won't even oppose the allegations of fraud against the Court to obtain any favorable judgments against the Petitioner which include cruel and unusual punishments inflicted. Time is running out for Brian before his imprisonment.

This is constitutional structural defect, a CONSTITUTIONAL CRISIS, and is very dangerous in a democratic republic type of Government. The United States of America is not supposed to be a banana republic. If the District Court already had the time and energy to deny Petitioner's motions, why didn't they enter any judgments vacating any fraudulent begotten judgments to protect Petitioner from wrongful incarceration. If Petitioner is found actually innocent aka legally innocent

of his conviction, then the Federal Court is willing to punish and imprison an innocent man once again while ignoring the frauds upon the court and ignoring any or all evidence of actual innocence inside of Petitioner's 2255 Motion (See Document #125 and #128 in the criminal case) that was filed since November, 2017. Petitioner is repeatedly being punished over and over again in a retaliation campaign against his claims of actual innocence. Petitioner's constitutional rights have been deprived so many times in the district court that it creates a fraud upon fraud upon fraud which contaminates the entire criminal case into being nothing but murky and muddy water based upon the murky and muddy nature of the frauds that make it difficult or maybe even impossible to know what the truth and facts were in different proceedings and judgments in this criminal case. Petitioner does not know what else to do except ask the media for help, ask Donald Trump for a full unconditional pardon, or asking attorneys to help him pro bono but to no avail because of the subject matter of his original criminal charge in Federal Court. People do not want to fight for a supposed "child pornographer" even if that person is actually innocent of that charge, because of the societal ramifications and reputation ramifications of helping somebody accused of such charge, it is unfair. All Petitioner has is his Pro Se filings and his court appointed counsels who also does not seem to care about his constitutional rights being deprived over and over again. Brian had even asked Roger Stone to help him in his pardon-campaign to get a pardon of innocence from the President to undo the corruption of the U.S. Attorney victimizing Brian by weaponizing the law under the U.S. District Court.

See U.S. District Court, District of Columbia, case no. 1:19-cr-00018, Letter(s) in Support of Sentencing — Document #262 (Brian Hill's 2019 declaration), United States v. ROGER JASON STONE.

In short, only “exceptional circumstances amounting to a judicial ‘usurpation of power’” or a “clear abuse of discretion” will “justify the invocation of this extraordinary remedy.” *Id.* at 380; accord, e.g., *In re Catawba Indian Tribe of S.C.*, 973 F.2d 1133, 1136 (4th Cir. 1992). Although the standard for mandamus is, and should be, a high one, it is satisfied in the extraordinary circumstances presented here.

While voidable orders are readily appealable and must be attacked directly, **void order may be circumvented by collateral attack or remedied by mandamus**, *Sanchez v. Hester*, 911 S.W.2d 173, (Tex.App. – Corpus Christi 1995). Arizona courts give great weight to federal courts’ interpretations of Federal Rule of Civil Procedure governing motion for relief from judgment in interpreting identical text of Arizona Rule of Civil Procedure, *Estate of Page v. Litzenburg*, 852 P.2d 128, review denied (Ariz.App. Div. 1, 1998).

In *Stoesel v. American Home*, 362 S.W.2d 350, and 199 N.E. 798 (1935), the court ruled and determined that, “Under Illinois Law and Federal Law, when any officer of the Court has committed “fraud on the Court”, the order and judgment of that court are void and of no legal force and effect.” In *Sparks v. Duval County Ranch*, 604 F.2d 976 (1979), the court ruled and determined that, “No immunity exists for co-conspirators of judge. There is no derivative immunity for extra-judicial actions of fraud, deceit and collusion.” In *Edwards v. Wiley*, 374 P.2d 284, the court ruled and determined that, “Judicial officers are not liable for erroneous exercise of judicial powers vested in them, but they are not immune from liability when they act wholly in excess of jurisdiction.” See also, *Vickery v. Dunnivan*, 279 P.2d 853, (1955). In *Beall v. Reidy*, 457 P.2d 376, the court ruled and determined, “Except by consent of all parties a judge is disqualified to sit in trial of a case if he comes within any of the grounds of disqualification named in

the Constitution. In *Taylor v. O'Grady*, 888 F.2d 1189, 7th Cir. (1989), the circuit ruled, "Further, the judge has a legal duty to disqualify, even if there is no motion asking for his disqualification." Also, when a lower court has no jurisdiction to enter judgment, the question of jurisdiction may be raised for the first time on appeal. See *DeBaca v. Wilcox*, 68 P. 922. The right to a tribunal free from bias and prejudice is based on the Due Process Clause. Should a judge issue any order after he has been disqualified by law, and if the party has been denied of any of his/her property, then the judge has engaged in the crime of interference with interstate commerce; the judge has acted in his/her personal capacity and not in the judge's judicial capacity. See *U.S. v. Scinto*, 521 F.2d 842 at page 845, 7th circuit, 1996. Party can attack subject matter jurisdiction at anytime in the proceeding, even raising jurisdiction for the first time on appeal, *State v. Begay*, 734 P.2d 278. "A prejudiced, biased judge who tries a case deprives a party adversely affected of due process." See *Nelson v. Cox*, 66 N.M. 397.

There is no time limit when a judgment is void:

Precision Eng. V. LPG, C.A. 1st (1992) 953 F.2d 21 at page 22, *Meadows v. Dominican Republic* CA 9th (1987) 817 F.2d at page 521, *In re: Center Wholesale, Inc.* C.A. 10th (1985) 759 F.2d 1440 at page 1448, *Misco Leasing v. Vaughn* CA 10th (1971) 450 F.2d 257, *Taft v. Donellen* C.A. 7th (1969) 407 F.2d 807, and *Bookout v. Beck* CA 9th (1965) 354 F.2d 823. See also, *Hawkeye Security Ins. V. Porter*, D.C. Ind. 1982, 95 F.R.D. 417, at page 419, *Saggers v. Yellow Freight* D.C. Ga. (1975) 68 F.R.D. 686 at page 690, *J.S. v. Melichar* D.C. Wis. (1972) 56 F.R.D. 49, *Ruddies v. Auburn Spark Plug*. 261 F. Supp. 648, *Garcia v. Garcia*, Utah 1986 712 P.2d 288 at page 290, and *Calasa v. Greenwell*, (1981) 633 P.2d 555 at page 585, 2 Hawaii395. "Judgment was vacated as void after 30 years in entry," *Crosby. V. Bradstreet*, CA 2nd (1963) 312 F.2d 483 cert. denied 83

S.Ct. 1300, 373 US 911, 10 L. Ed. 2d 412. "Delay of 22 years did not bar relief," U.S. v. Williams, D.C. Ark. (1952) 109 F.Supp. 456.

>A motion to set aside a judgment as **void** for lack of jurisdiction is **not subject to the time limitations** of Rule 60(b). See *Garcia v. Garcia*, 712 P.2d 288 (Utah 1986).

Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court, *People ex rel. Brzica v. Village of Lake Barrington*, 644 N.E.2d 66 (Ill.App. 2 Dist. 1994).

Void judgments generally fall into two classifications, that is, judgments where there is want of jurisdiction of person or subject matter, and judgments procured through fraud, and such judgments may be attacked directly or collaterally, *Irving v. Rodriquez*, 169 N.E.2d 145, (Ill.app. 2 Dist. 1960). Invalidity need to appear on face of judgment alone that judgment or order may be said to be intrinsically void or void on its face, if lack of jurisdiction appears from the record, *Crockett Oil Co. v. Effie*, 374 S.W.2d 154 (Mo.App. 1964).

A void judgment or order is one that is entered by a court lacking jurisdiction over the parties or the subject matter, or lacking the inherent power to enter the particular order or judgment, or where the order was procured by fraud, *In re Adoption of E.L.*, 733 N.E.2d 846, (Ill.App. 1 Dist. 2000). Void judgments are those rendered by court which lacked jurisdiction, either of subject matter or parties, *Cockerham v. Zikratch*, 619 P.2d 739 (Ariz. 1980).

A **void** judgment is one that has been procured by extrinsic or collateral fraud or entered by a court that did not have jurisdiction over the subject matter or the parties.” Rook v. Rook, 233 Va. 92, 95, 353 S.E.2d 756, 758 (1987).

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court, Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999).

I. THIS COURT SHOULD ISSUE A WRIT OF MANDAMUS DIRECTING THE DISTRICT COURT TO ENTER ITS ORDER VACATING ANY OR ALL FRAUDULENT BEGOTTEN JUDGMENTS

If the Court has an inherit power, an obligation, and a duty to correct any or all “fraud upon the court” and vacate any or all judgments/orders procured by fraud but the Court had failed to do so when the Court had plenty of time to correct the frauds and cure the wrongful orders or judgments as voidable by proven intrinsic or extrinsic frauds, the other two elements for mandamus plainly are satisfied: There is “no other adequate means to attain the relief” of immediate appeal. Appeals are not where to prove fraud upon the court, but when frauds have been proven in the lower Court record but the lower Court refuses or fails to deal with the frauds before itself, then Petitioner’s only form of relief is Mandamus and Prohibition. Cheney, 542 U.S. at 380. And this is a manifestly “appropriate” circumstance for mandamus relief because proceeding to stall any or all motions in regards to “fraud” and ignoring the issues of “fraud” indefinitely “would threaten

the integrity” of the Federal Court system and would plunge the United States into anarchy and lawlessness. Nobody will respect the Court or law enforcement anymore, unless they act to vacate the frauds, to punish the frauds.

Accordingly, the sole remaining question is whether the Petitioner has a “clear and indisputable right” to request any relief and sanctions in the district court when the Petitioner has proven the facts and elements of frauds upon the court by the adverse party and/or when the adverse party doesn’t oppose Petitioner’s facts and elements of the allegations of fraud upon the court.

As demonstrated below, in these “exceptional circumstances,” he is entitled to mandamus to obtain that relief from frauds and denial of due process. A district court has the ability under its inherent powers to vacate any fraudulent judgments and right to protect itself from frauds committed by an officer of the Court. If the court is stalling or ignoring the frauds when the frauds were perpetuated by counsel of the Federal Government then the court may be committing such a “clear abuse of discretion” that is contaminating the entire criminal case with murky waters as lack of integrity and lack of truthfulness. It is necessary that Petitioner is entitled to relief against any constitutional error of law and against any frauds for true justice and integrity in the Middle District of North Carolina, as any ignorance of the frauds indefinitely gives a Federal prosecutor or any United States Attorney the power of committing fraud against their adversaries and to freely lie and perjure which amounts to “a judicial ‘usurpation of power’” away from the impartial judicial officer to an attorney who can fabricate evidence or lie about anybody they want to always achieve a favorable verdict.

Because the statutory “preconditions for § 1292(b) review” are indisputably satisfied in this case, which additionally “involves an important constitutional legal

question” and “is of special consequence,” the district court “should not [have] hesitate[d] to file a judgment or order vacating any earlier judgments or orders that were grounded in fraud.”

The court’s refusal to investigate the frauds, refusal to cure the frauds, refusal to reverse any fraudulent begotten judgments as soon as possible after ordering imprisonment over a possibly actually innocent is such a clear abuse of discretion, a deprivation of a party’s due process rights under the Constitution, and an error of law and is a usurpation of jurisdiction that it warrants an exercise of this Court’s mandamus authority.

See *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991).

II. THIS COURT SHOULD ISSUE A WRIT OF PROHIBITION DIRECTING THE DISTRICT COURT TO NOT ENFORCE IT’S FRAUDULENT BEGOTTEN JUDGMENTS

This Court should enter a Writ of Prohibition prohibiting the District Court from enforcing any and all judgments including #200 “Judgment and Commitment Order” since that judgment is contaminated by earlier frauds and frauds have been brought up in multiple motions that were unopposed.

Document #206 that was unopposed brought up the frauds of the “Petition for Warrant or Summons for Offender Under Supervision” (Document #157). The very foundation for the “Judgment and Commitment Order” (Document #200) was fraudulent and the Petition should never have been granted and Petitioner’s Supervised Release never should have been revoked due to the frauds in the very foundation of the Supervised Release Violation judgment.

The constitutional impartiality of the Judge was contaminated by the frauds. This cannot be constitutional. A judgment that was voided from the very beginning cannot become valid.

>"A court cannot confer jurisdiction where none existed and cannot make a **void** proceeding valid. It is clear and well established law that a **void** order can be challenged in any court", OLD WAYNE MUT. L. ASSOC. v. McDONOUGH, 204 U. S. 8, 27 S. Ct. 236 (1907).

>"**Jurisdiction**, once challenged, cannot be assumed and **must be decided**." Maine v Thiboutot 100 S. Ct. 250.

CONCLUSION

This Court should issue a writ of mandamus directing the district court to immediately file orders concerning any and all issues involving fraud upon the court and that the issues of fraud should no longer be ignored, and that the Court file the order(s) within a fixed time period concerning the fraudulent begotten judgments entered under Document #54, Document #122, oral Judgment (Doc. #186) on September 12, 2019 and written Judgment under Document #200 concerning the wrongful imprisonment of Petitioner and violating Petitioner's constitutional and due process rights including but not limited to impartiality and that frauds affect the integrity throughout the entire criminal case. Additionally, this Court should stay district court proceedings or judgments, pending resolution of this petition.

This Court should issue a writ of prohibition directing the district court to immediately prohibit execution and enforcement of any or all of the oral Judgment (Doc. #186) on September 12, 2019 and written Judgment under Document #200

concerning the wrongful imprisonment of Petitioner. Additionally, this Court should stay district court proceedings or judgments and this Court should stay the imprisonment, pending resolution of this petition.

Respectfully filed with the Court, this the 21st day of September, 2019.

Respectfully submitted,

Brian D. Hill
Signed

Signed

Brian D. Hill (Pro Se)

310 Forest Street, Apartment 2

Martinsville, Virginia 24112

Phone #: (276) 790-3505

U.S.W.G.O.

Former U.S.W.G.O. Alternative News reporter

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Petitioner also requests with the Court that a copy of this pleading be served upon the Government as stated in 28 U.S.C. § 1915(d), that "The officers of the court shall issue and serve all process, and preform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases". Petitioner requests that copies be served with the U.S. Attorney office of Greensboro, NC via CM/ECF Notice of Electronic Filing ("NEF") email, by facsimile if the Government consents, or upon U.S. Mail.

Thank You!

However the Petitioner will asks that the Clerk serve copies of this pleading with the (1) U.S. Attorney Office of Greensboro, NC since the U.S. Probation office was directed that Petitioner not mail things to the U.S. Attorney Office, but Petitioner will still serve a copy with the (2) U.S. District Court in Greensboro, NC to file with the Clerk of the Court to put on the record and then serve the paper copy with the trial judge the Hon. Thomas D. Schroeder. Thjat should satisfy

service. If the Court still orders that a copy be served with the U.S. Attorney Office, please request to the U.S. Probation Officer that I be allowed to serve a copy of this pleading with the U.S. Attorney Office for the Middle District of North Carolina.

CERTIFICATE OF SERVICE

Petitioner hereby certifies that on November 21, 2019, service was made by mailing the original of the foregoing:

“PETITION FOR A WRIT OF MANDAMUS AND PROHIBITION TO THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA AND MOTION FOR STAY OF DISTRICT COURT JUDGMENT PENDING MANDAMUS”

by deposit in the United States Post Office, in an envelope (priority mail), Postage prepaid, on November 21, 2019 addressed to the Clerk of the Court in the United States Court of Appeals for the Fourth Circuit, 1100 East Main Street, Suite 501, Richmond, VA 23219.

~~Copy (1) of the original pleading has been served with the party of the United States of America through the United States Attorney office located at 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401. That shall satisfy requirement of service. Proof of service by stamped Certified Mail receipt shall serve as proof to satisfy the rules of the Court. Since Petitioner is indigent and does not have a lot of money to be printing too many copies of costly paper filings, Petitioner is serving a copy of this pleading on a CD-ROM with the entire pleading in PDF format. Petitioner requests with the Clerk that pursuant to In Forma Pauperis statute, that the Clerk serve a copy (1) of the original pleading with the party of the United States of America through the United States Attorney office through Notice of Electronic Filing, email, by the U.S. Marshals Service, or by any other authorized means.~~

Copy (2) of the original pleading has been served with the Clerk of the United States District Court for the Middle District of North Carolina to request filing on the record and then serve the copy of the paper pleading with the trial judge the Honorable Thomas D. Schroeder. The Clerk's office is located at 324 West Market

Street, Greensboro, NC 27401. That shall satisfy requirement of service. Cert. Mail tracking no. 7019-1120-0001-4751-4641. USPS tracking can serve as proof of service.

Then pursuant to 28 U.S.C. §1915(d), Petitioner requests that the Clerk of the Court move to electronically file the foregoing using the CM/ECF system which will send notification of such filing to the following parties to be served in this action:

Anand Prakash Ramaswamy U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 Anand.Ramaswamy@usdoj.gov	Angela Hewlett Miller U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 angela.miller@usdoj.gov
JOHN M. ALSUP U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 john.alsup@usdoj.gov	

This is pursuant to Petitioner's "In forma Pauperis" ("IFP") status, 28 U.S.C. §1915(d) that "The officers of the court shall issue and serve all process, and perform all duties in such cases ... "the Clerk shall serve process via CM/ECF to serve process with all parties.

<p>Date of signing:</p> <p><u>November 21, 2019</u></p>	<p>Respectfully submitted,</p> <p><u>Brian D. Hill</u> Signed</p> <p>Brian D. Hill (Pro Se) 310 Forest Street, Apartment 1 Martinsville, Virginia 24112 Phone #: (276) 790-3505</p> <p>U.S.W.G.O.</p> <p>I stand with QANON/Donald-Trump – Drain the Swamp</p> <p>I ask Qanon and Donald John Trump for Assistance (S.O.S.)</p>
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